

REMARKS

Claims 11-26 remain in this application.

The Office Action requires election of an invention from the following:

Group I including claims 11-16 ; Group II including claims 17-26.

Applicant elects Group I.

MPEP §1893.03(d) states “[e]xaminers are reminded that unity of invention (not restriction practice pursuant to 37 CFR 1.141 - 1.146) is applicable in international applications (both Chapter I and II) and in national stage applications submitted under 35 U.S.C. 371.”

The present application is a National Stage PCT Application filed under 35 USC §371. Accordingly, election of an invention is not required where a unity of invention exists among the claims. PCT Rules 13.1 and 13.2 are to be followed in making a unity of invention determination without regard to restriction practice in applications filed under 35 USC §111. MPEP §1893.03(d).

The Office Action states “that the process as claimed can be practiced by another materially different apparatus or by hand such as a hand driven running machine.” Office Action page 2. In other words, the Office Action is distinguishing between a process and an apparatus for carrying out the process. However, Rule 13 permits the combination of claims including “in addition to an independent claim for a given process, an independent claim for an apparatus or means specifically designed for carrying out said process.” MPEP §1850 “*Combinations of Different Categories of Claims.*” It is further stated that “the expression ‘specifically designed’ does not imply that the apparatus or means could not be used for carrying out another process, nor that the process could not be carried on using an alternative apparatus or means.” *Id.* Thus, the statement in the Office Action that the process could be carried out with an alternative apparatus does not establish a lack of unity of invention.

Thus, applicant traverses the restriction on the grounds that the restriction is improper.

In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.

Applicant also requests a corrected Office Action. MPEP §1893.03(d) states that "when making a lack of unity of invention requirement, the examiner must .. explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) *specifically describing the unique special technical feature in each group.*" MPEP §1893.03(d) (emphasis added). The Office Action does not specifically describe the unique special technical feature in each group. Thus, the error in the Office Action affects the applicant's ability to respond to the Office Action. Applicant hereby requests that the Office set a new period for reply from the date the error is corrected. *See* MPEP §710.06.

Respectfully submitted,

Jordan and Hamburg LLP

By Frank J. Jordan by m. gen. auth.
Frank J. Jordan
Reg. No. 20,456
Attorney for Applicants

and,

By M. Zev Levoritz
M. Zev Levoritz
Reg. No. 50,151
Attorney for Applicants

Jordan and Hamburg LLP
122 East 42nd Street
New York, New York 10168
(212) 986-2340

FJJ/MZL/cj